IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 233 of 1985

For Approval and Signature:

Hon'ble CHIEF JUSTICE MR DM DHARMADHIKARI
and
Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF INCOME-TAX

Versus

SARASPUR MILLS LIMITED

Appearance:

MR B B Naik with Mr RP BHATT for Petitioner

MR M J SHAH for Respondent No. 1

CORAM : CHIEF JUSTICE MR DM DHARMADHIKARI
and
MR.JUSTICE M.S.SHAH

Date of decision: 21/11/2000

ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

In this Reference at the instance of the revenue, the following question is referred to us for our opinion in respect of assessment year 1974-75 :

"Whether on the facts and in the circumstances of the case, the assessee is entitled in law to interest u/s 214 of the Income tax Act, 1961 on the refund granted to it on the excess of advance tax paid upto the date of the CIT (A) as claimed ?"

In this regard, Mr. Naik for the revenue and Mr. Shah for the assessee stated that the question is concluded against the assessee by the Apex Court in Modi Industries Ltd. vs. CIT , 216 ITR 759.

In view of the above decision, we answer the question in the negative, i.e. in favour of the revenue and against the assessee. The Reference stands disposed of accordingly. There shall be no order as to costs.

(D.M.Dharmadhikari, C.J.)

(M. S. Shah, J.)

parekh